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NO: 87-1025

Supreme Court, U.S.
FILED
DEC 18 1987
JOSEPH F. SPANIOL, JR.
CLERK

In the Supreme Court of the United States

October Term, 1987

RAY MORGAN

Petitioner,

Vs.

THE STATE OF OHIO, Via,
OHIO ETHICS COMMISSION

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO:

THE MUNICIPAL COURT OF SPRINGFIELD, OHIO

ATTORNEY OF RECORD
FOR THE RESPONDENTS:

MR. ALBERT STEWART,
CITY PROSECUTOR,
MUNICIPAL COURT
25 North Fountain Avenue
Springfield, Ohio 45502
PH: (513) 324-5802

PETITIONING ON BEHALF OF HIMSELF:

MR. RAY MORGAN
4112 Vernon Asbury Road
South Vienna, Ohio 45369
PH: (513) 828-1082

December , 1987

QUESTIONS PRESENTED FOR REVIEW

1] May a citizen of the United States seeking elected office, supported by the maximum amount of electors allowed by law signing his Petiton for Candidacy as 'qualified' to represent them, assert his constitutional rights in lieu of a mandated statutory scheme perpetrated exclusively on candidates, without fear of re-proof or criminal conclusions; where there has been no inquiries as to the validity of the constitutional assertion but, just arbitrarily concluded by the State authorities to be a criminal act, in and of itself because, the assertion of his Constitutional rights lacked the specificity of the statute?

2] Does a citizen of the United States have the constitutional right to have the assistance of a trusted friend,

acting in the capacity of a 'clerk', in lieu of a licensed attorney to counsel with in private, at trial, if willing to waive his right to ineffective assistance of counsel?

3] Should a citizen of the United States who is a criminal defendant have the right to depend on a perfected record, by impartial Court proceedings that are electronically taken by the Trial Court Judge, especially, when demanded prior to all proceedings held before that trial court, when that defendant is not allowed to tape record the proceedings, as official, [or unofficial] without hiring a Court Reporter?

4] Does a citizen of the United States have the constitutional right to face his accusers that are members of a Commission having the power to bring criminal accusations against him, when

the assessment is given to them absent the presence of the accused, brought about by proceedings held on their behalf in their absence, by their agents; where the minutes of that 'closed' meeting of this occurence conclude only with the recomendations of their agents [written and verbal] to prosecute and a written rebuttal [only from the written recomendation for prosecution] by the acccused, is submitted for their consideration?

5] Does a citizen of the United States, as a criminal defendant, have the constitutional right to compel the testimony of a former elected official, removed from elected office, when that removal originated on similar criminal charges to testify on his behalf?

6.] Should a citizen of the United States be held to the same stringent standards required of an attorney?

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OPINIONS AND JUDGMENT BELOW

The Municipal Court of Springfield, Ohio, entered a finding, to wit: "guilty of failure to file a financial disclosure statement"; said 'finding' was entered on October 27, 1986. On appeal to the Court of Appeals of Ohio, Second Appellate District, the verdict of the trial court was sustained by it's 'Opinion' rendered on May 28, 1987 and Journal Entry pursuant to that 'Opinion' filed June 11, 1987. Rehearing was denied pursuant to Journal Entry filed July 28, 1987. On Appeal, the Ohio Supreme Court dismissed the appeal on Motion of this Petitioner to Certify and also, rendered their opinion to declare that no substantial Constitutional question existed pursuant to Journal Entry dated October 21, 1987.

JURISDICTIONAL STATEMENT

Petitioner, Ray Morgan, an unsuccessful candidate for elective office, brings this petition from a criminal conviction before the Springfield Municipal Court, entered on the docket of Journal Entries by a finding, "Guilty of knowingly failing to file a financial disclosure statement", on October 23, 1986 and upheld through the appellate levels including the State Court of last resort, to wit: The Supreme Court of Ohio by Entry dated October 21, 1987.

This Petitioner brings this Petition pursuant to the provisions of 28 U.S.C. 1466 and Article III, Section 1 & 2 of the United States Constitution, to wit:

"The judicial power of the United States, shall be vested in one supreme Court,...The judicial power shall extend to all Cases, in Law and Equity, arising under this Constitution...

Controversies...between a State, or the Citizens thereof,...In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the supreme Court shall have original Jurisdiction."

Further, Petitioner contends that this case involves the right to speak or not to speak, the right to petition his government for a redress of grievance, under the First Amendment; also, Petitioner claims violation of his right to be secure from arbitrary government prosecution secured to him by virtue of the Fourth, Fifth, Ninth, Tenth, Thirteenth and Fourteenth Amendments in the United States Constitution. From a criminal conviction sustained by the arbitrary enforcement of Ohio Revised Code Section 102.02. [See Apendix pgs. A- 75 thru A-87.]

STATEMENT OF THE CASE

Petitioner filed nominating petitions for Clark County Commissioner as an Independent candidate, with the maximum amount of signatures allowed, for that purpose pursuant to law, on the last filing day at law, in February, 1984.

Petitioner, was nominated for Independent candidacy, pursuant to law by approximately two (2) per cent of the electors voting in the next preceeding election for the office of Governor of this State, from the county which he was a candidate.

Petitioner, made every effort to conform in complete compliance with O.R.C. Title 35 which mandates 'specific regulatory' performance in reporting all contributors, contributions, expenditures, etc., for candidacy, even post election requirements were met pursuant to that Title.

The record reflects this good-faith attempt to comply with law prevailed throughout the proceedings before the Ohio Ethics Commission. Contrary to the Hearing Examiner's conclusive reasoning concerning the findings of fact and the conclusions of law. [See Appendix, pgs. A-1 thru A-8.] The full Commission adopted his reasoning [See Appendix, pgs. A-9]. As a result, after timely appeal made pursuant to the Ohio Administrative Code by this Petitioner was to no avail, the matter was referred to the Clark County prosecutor's office for prosecution in May of 1985.

Accordingly, this Petitioner also sent a letter to the Clark County Prosecutor recommending the awesome power of his office be used to conduct an investigative inquiry into the

actions and inactions of the Ohio Ethics Commission.

Hearing nothing further, on or about August 1, 1986, at approximately 9:00 A.M. the Sheriff of Clark County served on this Petitioner a copy of: 'Complaint By Individual', signed by the counsel for the Ohio Ethics Commission, David E. Freel, declaring that he was acting on behalf of the Ohio Ethics Commission;#1 alleging criminal violations of O.R.C. § 102.02 - Failure to file a financial disclosure statement - and a warrant to appear for arraignment before the Springfield Municipal Court at 1:30 P.M. of the same date. [See Apendix, pgs. A-10 thru A-12]. Petitioner challenged the jurisdiction of the court for various reasons, among

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#1 The Ohio Ethics Commission has no independent power of prosecutorial authority under O.R.C. Section 102.06. [See Appendix pgs. A-88 thru A-95.]

which was those that alleged no official inquiry into the assertion of the Fifth Amendment, just arbitrarily construed to be a criminal act in and of itself, because, it lacked the specificity of the mandates in the statute; and lack of jurisdiction; all of which were overruled. This portion of the trial transcript was officially declared lost and is not a part of the official record. [See Appendix pg. A-103.1]

The final result being that the Ohio Ethics Commission was allowed to prosecute this Petitioner with a criminal prosecution for failing to file a 'financial disclosure statement', through Mr. Freel, counsel for the Ohio Ethics Commission, acting on their behalf, as attested to by his signature on the complaint. Further, attested to by the Ohio Ethics

Commission being the "Complainant", on that document.

[See Appendix pg., A-11.]

Subsequently, a trial was held before that court on September 22, 1986, continued and concluded on September 24, 1986. On October 27, 1986, Petitioner was notified that Judge Nevius, had entered a 'finding' of guilt for failure to file the 'Financial Disclosure Statement'; sentencing was scheduled at 9:15 A.M., November 3, 1986. Petitioner appeared on that date and received a sentence, pursuant to the 'finding', of five [5] days in jail, $100.00 fine and costs of the prosecution. [See Appendix pg. A-13 thru A-25.]

A stay of execution was granted and a timely 'notice of appeal' was filed; the appeal was taken to the Second District Court of Appeals of Ohio

citing seven (7) assignments of error [See their Opinion in appendix, pgs. A-26 thru A-71, wherein those assignments are cited], all of which were considered without merit. Rehearing was denied [See Appendix pg. 72.] and the Supreme Court of Ohio dismissed the appeal on motion to certify. Also, on appeal as of right stating no substantial Constitutional question existed. [See Appendix pgs. 73 thru 74.]

Petitioner was also denied the right to compell testimony from a former elected official removed from office. Although he asked for an 'evidentiary hearing' concerning the missing portion of the transcript where an offer of proof was made that the filling out of the form was the chain in a link of evidence that resulted from this witness's removal from elected office.

[this portion of the trial transcript was officially missing and is not a part of the official record.]

The request for the 'evidentiary hearing' was denied for a procedural defect in Petitioner's appeal. Notwithstanding testimony was given, questions asked, objections were raised, a proffer of proof was offered.

This citizen being held to the same stringent standards of an attorney, negating the fact an evidentiary hearing was needed and requested, supporting judicial proceedings so far removed from justice. [See pg. A- 110.]

Petitioner was also denied the testimony of the members of the commission [See Appendix pgs 104 thru 108] and the assistance of a lay 'clerk' [counsel of choice] in lieu of licensed counsel. [See Appendix pg. 109]

REASON FOR GRANTING CERTIORARI

"Both at common law and under the constitution of Ohio, no person can be compelled to be a witness against himself. The privilege is a strictly personal privilege, to be claimed by the interested person." (1941 OAG NO. 3599.)

The record is replete with authoritative precedents supporting the method of asserting those rights, by this Petitioner to comply with the statutory 'required' testimony, in lieu of the specific 'testimonial' mandates. All of which through twisted, subverted, mis-application, along with acts that border on malfeasance have been abrogated, obliterated and usurped; with the same principle applied to the collateral matter 'petitioning' a redress concerning our monetary system.

The Biblical references and the 'Petition' concerning the meaning of the sign, to wit: "$", was construed to imply this Petitioner was trying to

flim-flam his honest responsibilities concerning "income" on the basis of "lawful money", notwithstanding the sole symbal of "$" denoting the type of income referred to exclusively on the Financial Disclosure Form.

Petitioner as a citizen acting within the context of a good faith attempt to comply at law, is arbitrarily branded as a criminal [SIC] absent any grant of immunity or respect for the principals [SIC] of dissent, even though done in good faith. In truth, the assertion of the Fifth Amendment was never inquired into, just blatantly and arbitrarily construed to be a criminal act because it didn't comply with O.R.C. § 102.02 with its specificity requirements.

An act on its face to discredit the Petitioner's integrity and subtlety by force, to discourage any more attempts to run for elected office by those in

power. Notwithstanding, those who will support and nominate him to represent them, as said from the outset and contrary to the opinion of the Appeals Court, saying this issue was not raised.

In State's Exhibit No. 4, this Petitioner made very clear his contention, the pertinent part appearing on page 1 within the attached 'Notice', to wit:

"Pursuant to the awesome power and force entrusted, bestowed, and exercised by those in government, whom under the name of law compell me to act as a witness against myself, for the presumptive purpose of protecting the General Public from wrong doing on my part. Is a supposed prevarication, because I sought elected office, and to say the least, is a mockery and subtle undermining subterfuge of our American system of justice, and a way to subject all good men seeking elected office to submit themselves right from the start, to unAmerican despotic principles."

Is appellant to believe that the law is what ever the 'opinion' of those entrusted with the power to decide it

be according to their political persuasions; and not within the framework of the written intent or within the confines of the Constitution(s); and outside the parameter of a myriad of conclusive reasoning by our courts; all relied upon by this Petitioner pursuant to a long line of precedent 'holdings', which support his attempt to comply with the statute?

Such flagrant, arbitrary, tyrannical and despotic acts of interpretation are not perpetrated on those who walk submissively, or to the multitude of unregistered voter citizens who just plain don't give a damn. Don't bother those citizens; but, to those like this Petitioner, who put faith and trust in our Constitutional protections and dare to assert them in lieu of the required specific 'testimonial' mandates of our

legislature, charge those people with criminal acts and punish them for their failure to perform with the specificity mandates. [SIC]

It is incongruous that this Petitioner, a sovereign citizen of the United States of America, be condemned as a criminal with punishment sanctions, for asserting his Constitutional right in lieu of the required specific 'testimonial' information of the statutory scheme imposed by O.R.C. § 102.02. In an 'apparent authority', the over extention and far reaching conclusion to support the 'compelling interest of the State', and the subsequent twisted, subverted logic to support such a conclusion, has in reality sustained such tyranny.

Notwithstanding, to the intent of the enactment and the constitutional rights of this Petitioner. O..R.C. Section

102.02 [B] provides the procedure for the Ohio Ethics Commission to follow where it has reason to believe that a potential conflict of interest may exist, to wit:

> "...If the commission determines that a potential conflict of interest exists, it shall notify the person who filed the disclosure statement and shall make the portions of the disclosure statement that indicate a potential conflict of interest subject to public inspection in the same manner as is provided for other disclosure statements..."

Under what concealment has the power exercised against this Petitioner lain hidden which now for the first time comes forth, with a tremendous and horrible aspect, to trample down and destroy the dearest rights of personal liberty? Further, what about the petitioning voters supporting my qualifications, to represent them on their behalf?

What loyal American can show me any Constitutional injunction which makes

it the duty of an American citizen to surrender a good faith assertion of a Constitutional right, not when the safety of their country and its liberties may demand the sacrifice, but whenever the purposes of an ambitious and mischievous government of political zealots may 'require' it?

The 'finding', [SIC] to maintain this authority upon the provisions of the Constitution is an exercise of perverse ingenuity to extract slavery from the substance of a free government. It is an attempt to show, by force, proof and argument, that we ourselves are subjects of despotism, and that we have a right to chains and bondage, firmly secured to us and our children by the provisions and decrees of our government.

It is on its face, an appearance of duty to free us of the delusion, which

we have fondly cherished, that we are the sovereign of a mild free and limited government, and to demonstrate, by a regular chain of premises and conclusions, that government possesses over us a power more tyrannical, more arbitrary, more dangerous, more allied to blood and murder, more full of every form of feudal encouragement, more productive of every sort of specific performance and degree of misery than has been exercised by any civilized government, with a single exception, in modern times.

Those who cry out that the political process is in danger are themselves the author of that danger. The same reasoning that concludes the enforcement of O.R.C. § 102.02, as perpetrated upon this Petitioner under the doctrine of the 'compelling interest of the State',[SIC] could

also be applied in an exact and tyrannical manner under the principle that the State has a compelling interest in the utilities, the railroads, the roads, the coal mines, the list could go on and on. Wherein, the Constitutional rights of an individual, or any group of individuals would be subservient to those interests.

Such logic condemning a good faith attempt to comply with the statutory requirement(s) by the assertion of this Petitioner's Constitutional right not to speak, equal protection and not being compelled to witness against himself absent any offer of immunity, just blatantly and arbitrarily proclaimed this Petitioner "Guilty" for failing to file a financial disclosure form for lack of specificity. A gross violation of Petitioner's additional

Constitutional right to be secure in his person, and his further rights antecedent the Constitution as secured him under the Nineth and Tenth Amendments.

Past cases have condemned former examples of such twisted, subverted, distorted and mis-applied logic, in Ohio State Courts, to wit:

"A witness may always claim as privileged that which tends to incriminate him..." In re FRYE, 155 OS 345, OO 320, 98 NE 2d 798.

"No person may be compelled to testify where that testimony may incriminate him or lay the foundation for a criminal prosecution against him..." In re LAZZARO, 51 OO 285, 65 OLA 210, 111 NE 2d 611 (CP)

The fact this Petitioner asserted his rights under the Fifth Amendment to the U.S. Constitution in lieu of the answers called for on the form by the Ohio Ethics Commission, is a decision that rests solely with this Petitioner. His attempt to comply in the fashion he

asserted, to claim his constitutional rights in a lawful manner, pursuant to the aforesaid reasoning relied upon by this Petitioner, has also been defined and upheld by the courts of Ohio, to wit:

"The privilege against self-incrimination as guaranteed by the Ohio Constitution in art. I, §10, applies only to disclosure by utterance, oral or written..." [SIC] STATE V GATTON, 60 App 192, 14 OO 20, 20 NE 2d 265.

"The provisions of the Fifth Amendment to the Constitution of the United States and of this section of the Constitution of Ohio, which preclude any person from being compelled, in any criminal case, both felonies and misdemeanors and to criminal contempt proceedings..." In re NEFF, 20 OApp 2d 213, 49 OO 2d 312, 254 NE 2d 25.

"A private corporation is a person within the meaning of R.C. § 4112.04 (B)(3)(a), and may claim a privilege against self-incrimination in proceedings before the Ohio Civil Rights Commission." OHIO CIVIL RIGHTS COMM. V PARKLAWN MANOR, (1975) 41 OS 2d 47, OO 2d 148, 322 NE 2d 642.

"The government created by the Constitution of this state, although not of enumerated, is yet one of limited powers. The sovereign powers of the state are manifestly subject to

the restraints and limitations of the Federal Constitution." (16 O Jur 3d, § 210.)

Ohio has declared the right of an entity created at law, by the State, can assert the Fifth Amendment in proceedings dealing with Civil Rights (OHIO CIVIL RIGHTS COMM. V PARKLAWN MANOR, CITED SUPRA.) but, such reasoning has been abrogated for an entity created by the law of Almighty God, vis a vis; the prosecution abrogated this Petitioner's Fifth Amendment assertion that absolutely failed to prove criminal intent, [SIC] except the attempted compliance lacked the specificity of the statute.

Petitioner also complied within the reasoning of the 'holding' of law in UNITED STATES V SULLIVAN, 274 U.S. 259, where it was 'held' that no return at all was against the responsibilities of a witness and if an objection was to be

made, it had to be made on the return.[SIC] Such reasoning, in re: to SULLIVAN, did not imply that the assertion of a constitutional right was a challenge to the constitutional validity of the governmental act, as has been construed against this Petitioner by the lower courts. [Sic] Although the way it has been enforced against this Petitioner it should be.

The 'finding' [SIC] however, with its resulting implementation of a criminal conviction with punishment, is also against the reasoning of law applicable under the prohibition as specified in the following reasoning by the Supreme Court of the United States, to wit:

"Yet, if the factual situations in which the privilege [SIC] may be claimed were inflexibly defined by a chronological formula, the policies which the constitutional privilege [SIC] is intended to serve could easily be evaded." (MARCHETTI V UNITED STATES, 390 U.S. Pg.# 54 in the 'opinion' of this Court.)

The State of Ohio, via the Ohio Ethics Commission, attempting to wear the 'white hat of the good ole guy', by blatantly refusing to recognize the Petitioner's good faith attempt to comply with the statute; 'petition' a redress concerned with our monetary system; standing cloaked in despotism; demands 'testimonial' compliance strictly pursuant to the specific 'testimonial requirements' mandated by O.R.C. § 102.02. Such a demand was absent any inquiry to the validity of the assertion or any grant of immunity, establishing a 'chronological formula' demanding 'specific' compliance with the statute and directly against the manifest reasoning in MARCHETTI V UNITED STATES, cited supra.

Accordingly, this Petitioner appeals as a convicted criminal [SIC] as a result of the 'finding' [SIC] which is

manifestly against the weight and reasoning of a myriad of authority to the contrary; all relied upon by this Petitioner, not the least of which is, continued to wit:

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." (MIRANDA v STATE of ARIZONA, 86 S. Ct., 1602.)

"The very purpose of the Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty and property, to free speech, a free press, freedom of worship and assembly and other fundamental rights may not be submitted to vote: They depend on the outcome of no elections." (VIRGINIA STATE BD. OF ED. et al, v BARNETTE (1943) 319 U.S. 624.) EMPHASIS MINE.

"...In a general sense, the courts must construe constitutional provisions as they find them. If a constitutional provision is unwise, unjust, harsh, or not in harmony with sound public sentiment, the courts are not authorized to disregard it or indirectly annul it by construing it away." (16 O Jur 3d § 88.)

The reasoning of law in 16 O Jur 3d § 88 as cited supra, is just propaganda when held up to the circumstances in this instant case of good faith, attempted compliance, also, it is apparent this Petitioner's rights are obliviated even absent a vote of the people inferior within the requirements and scheme of O.R.C. § 102.02 afforded this Petitioner. The compelling interest of the State has been complied with despite the despicable, tyrannical, despotic and arbitrary reasoning of twisted, distorted, subverted and misapplication of a responsible rendition of justice, all to the abrogation and derogation of this Petitioner's Constitutional rights.

CONCLUSION

Petitioner has suffered and continues to suffer by acts of despotic fiat allowed by the lower courts, presumably to the authority in 25 O Jur 3d, § 1, pg. 93, the pertinent part, to wit:

"The elements necessary to constitute a crime must be gathered from the legislative enactment describing the offense, and not aliunde, and where a legislative enactment provides the procedure such provision is exclusive."

The controlling considerations for the granting of a Writ of Certiorari are directly on point with Rule No. 17, Rules of the Supreme Court of the United States; i.e., the inadequate and negligent handling of the Transcript as has so far departed from the accepted and usual course of judicial proceedings; the federal questions of law decided in a way that conflicts with the reasoning of this Court; the deprivation of this Petitioner's rights

secured under the Constitution and antecedent to our Constitution; all of which as to call for an exercise of this Court's power of supervision.

Petitioner respectfully submits that this Court should grant certiorari.

Respectfully submitted,

RAY MORGAN
4112 Vernon Asbury Road
South Vienna, Ohio
45369
PH: [513] 828-1082

AFFIDAVIT OF SERVICE

STATE OF OHIO :
:--SS
COUNTY OF CLARK:

Being duly recognizant at law for the making of an Affidavit, Ray Morgan, Affiant herein, says and affirms the following act will be done true and just as he solemly believes; to wit:

1. I, Ray Morgan, Pursuant to Part VIII, of the Rules of the Supreme Court of the United States, specifically Rule 28.5 [c] hereby CERTIFY that I did, on the 16 Th day of December, 1987, forward forty [40] copies of my Petition for a Writ of Certiorari to the United States Supreme Court, by placing copies of same in a properly addressed package to:

Clerk of the Supreme Court
of the United States
Supreme Court Building
1 First Street, N.E.
Washington, D. C. 20543

Also, a copy of same to counsel for Respondents, to wit:

Mr. Albert Stewart - City Prosecutor
City of Springfield
25 North Fountain Avenue
Springfield, Ohio, 45502

by depositing 3 copies of same in the United States Mail, first class postage pre-paid, on the 16th day of December, 1987.

Further affiant saith nought.

Ray Morgan

Ray Morgan
4112 Vernon Asbury Road
South Vienna, Ohio, 45369
[513] 828-1082

Subscribed in my presence, known by me, after affirming the above.

WHEREUNTO, I ATTEST AND WITNESS: This act done and the Mailing, at the United States Post Office, in Springfield, Ohio; by subscribing my signature and affixing a Notary Seal on each copy, this 16th day of December, 1987.

Mary M. Davis
[NOTARY PUBLIC]

My Commission expires 2-19-92

*(1)

REPORT OF HEARING EXAMINER

This report is submitted to the Ohio Ethics Commission pursuant to Section 102-7-13 of the Ohio Administrative Code.

COMPLAINT NO. 84-FDC-175-234

RESPONDENT: Ray Morgan
4112 Vernon Asbury Road
South Vienna, Ohio 45369

COUNTY: Clark

OFFICE: Candidate for Clark County Commissioner

HEARING DATE: January 17, 1985

FINDINGS OF FACT

After having reviewed the exhibits entered into evidence, the arguments of the Respondent and Commission Counsel, and the transcript of the proceedings, I find the following:

1] Ray Morgan was a candidate for the office of Clark County Commissioner in 1984;

2] Mr. Morgan filed a petition of candidacy or declaration of intent to run for such office on February 23, 1984;

3] Mr. Morgan did not appear on the May primary ballot for the office of Clark County Commissioner because he was an Independent candidate and testimony to the contrary is disregarded based upon a thorough review of the exhibits and testimony;

4] Mr. Morgan first appeared on the ballot as a candidate for such office in the November 6, 1984, general election;

5] Mr. Morgan was required by Section 102.03[A] of the Revised Code to file a financial disclosure statement for calendar year 1983 by October 5, 1984,

thirty [30] days prior to the November 6, 1984, election date;

6] A certified letter reminding Mr. Morgan of the Section 102.03[A]requirement and his failure to file such statement was sent to Mr. Morgan's home address on October 18, 1984, and was returned to the Commission unclaimed on November 3, 1984;

7] Mr. Morgan communicated with members of the Commission staff by phone concerning the requirement upon him to file a financial disclosure statement; *(2)

8] Mr. Morgan was personally served on December 17, 1984, with a copy of Complaint No. 84-FDC-175-234 filed on Decembwer [SIC] 13, 1984, which alleged his failure to file the required statement and notified him of the

hearing scheduled on the matter for January 17, 1985;

9] Mr. Morgan appeared at the hearing on January 17, 1985, and provided the hearing examiner with a 1983 financial disclosure statement and an attached five-page typewritten memorandum [Respondent's Exhibit No. 2];

10] In Respondent's Exhibit No. 2, Mr. Morgan invoked his Fifth Amendment privilege under the United States Constitution not to answer questions on the 1983 financial disclosure form.

CONCLUSIONS OF LAW

The Respondent, Ray Morgan, was a candidate for the office of Clark County Commissioner, first appearing on the ballot in the November 6, 1984, general election. Section 102.03[A] of the Revised Code requires that Mr. Morgan file a financial disclosure statement for calendar year 1983 on, or

prior to, October 5, 1984, thirty [30] days prior to the election. Division [A] of Section 102.02 of the Revised Code requires that Mr. Morgan disclose the required information on the 1983 statement which is specified by Subsection [1] through [7] of that Division. Mr. Morgan knew of this requirement and appeared at hearing on January 17, 1985, to respond to Complaint No. 84-FDC-175-234 which alleged his failure to meet this requirement.

Mr. Morgan argued on his behalf that he can not comply with the requirements of Section 102.02 by disclosing the information required on the 1983 financial disclosure form for two reasons. Although both of Mr. Morgan's arguments are extensively developed and more eloquently stated in his five-page statement and testimony, the first

reason Mr. Morgan states is that disclosure would violate his Fifth Amendment privilege against self-incrimination under the United States Constitution. Secondly, Mr. Morgan asserts that religious principles and United States Code provisions require the term "income" to be construed as gold or silver tender only. As a result, Mr. Morgan states that he did not disclose the information requested in his 1983 financial disclosure form which was admitted into evidence at hearing because he did not receive gold or silver in calendar year 1983 as tender, and any other required information is subject to his privilege against self-incrimination.

The arguments Mr. Morgan asserts substantively challenge the requirement of disclosure contained in Section 102.02 of the Revised Code as promul-

gated by the Ohio Legislature, and as such must be addressed to the legislature or a court of law.

Under the duties and responsibilities imposed upon me by Section 102.05 and 102.06 of the Revised Code, I find that Respondent, Ray Morgan, did not file a 1983 financial disclosure statement as required by Section 102.02[C] of the Revised Code which disclosed the information required by Section 102.02[A] of the Revised Code, that he knowingly did not do so, and that there is therefore a preponderance of evidence to believe that the facts alleged in the Complaint No. 84-FDC-175-234 are true and constitute a violation of Division [C] of Section 102.02 of the Revised Code.

RECOMMENDATION

RECOMMENDATION

This case should be referred to the Clark County Prosecutor for prosecution.

s / Richard D. Jackson; Date: 2-13-85.

BEFORE THE OHIO ETHICS COMMISSION

State of Ohio

v. Case No. 84-FDC-175-234

Ray Morgan

ORDER

The case of State v. Ray Morgan, Case No. 84-FDC-175-234, came before the Commission for hearing upon the Report of the Hearing Examiner filed on February 15, 1985, and Objections filed by the Respondent on March 4, 1985.

It is hereby ordered that the Report of the Hearing Examiner in the above-titled matter be accepted and the matter be referred to the appropriate prosecutor.

s / _____

Robert Y. Farrington, Chairman

OHIO ETHICS COMMISSION

*(1)THE STATE OF OHIO
)ss.
CLARK COUNTY

The Municipal Court
of Springfield, Ohio

Complaint By Individual

Before me, Clerk of the Municipal Court of Springfield, Ohio, personally came David E. Freel, Counsel, on behalf of the Ohio Ethics Commission, who being duly sworn states that on or about November 6, 1984, one Ray Morgan was a candidate for the position of Clark County Commissioner and knowingly failed to file a financial disclosure statement for calendar year 1983 with the Ohio Ethics Commission, to wit: [1] Ray Morgan was a candidate for the elective office of Clark County Commissioner, Clark County, Ohio; [2] Mr. Morgan's candidacy first appeared on the ballot in the November 6, 1984, general election; [3] as a candidate for such office, Mr. Morgan was

required to provide the information required by Section 102.02 of the Revised Code in a completed financial disclosure statement for calendar year 1983, no later than the thirtieth day prior to the election; [4] Mr. Morgan was informed at least twice prior to a hearing before the Commission of the requirement upon him to file and his failure to do so; and [5] Mr. Morgan knowingly failed to file such a financial disclosure statement; in violation of Section No. 102.02 of the Revised Code.

David E. Freel, Counsel for Ohio Ethics Commission on behalf of the Ohio Ethics Commission - Complainant

s / David E. Freel

Sworn to and subscribed before me by the Complainant on 29th July, 1986. GUY A. FERGUSON, CLERK - By D.M.Diliest, Deputy Clerk

*(2) Order In- B

Case No.86 CR 002664

MUNICIPAL COURT OF SPRINGFIELD, OHIO

THE STATE OF OHIO

V.

Ray Morgan

4112 Vernon Asbury Road

South Vienna, OH

50's/W/M; 5'10"

Charge: Failure to File Financial Disclosure Information

Violation: §102.02 [C]

Max. Pen.: Fourth Degree Misdemeanor Thirty [30] Days and / or $250.00 Fine

[Stamp File showing: FILED JUL 30 1986

November 3, 1986 - DISPOSITION - Tr. Trial pgs. 128 thru 137. *(128)

THE COURT: RAY MORGAN? MR. MORGAN: Is there a transcript being made of this, your Honor?

THE COURT: Yes, this is being recorded. You are before the Court for sentencing, a decision having been entered on your case for Failure to File a Financial Disclosure information. I notice that you've filed a motion for Conclusions of Facts and Conclusions of Law. Do you wish to be heard in regard to that before we proceed?

MR. MORGAN: Well, I think the Motion is self-explanatory, your Honor. I think that I would be entitled to know the conclusion of facts that established the jurisdiction that I raised, the jurisdictional issue. And the facts of

my filling out the form that the State has claimed that I didn't fill out the form. And the law that this Court has found to sustain the finding of guilty.

THE COURT: All right, well I could tell you this morning that in regard to the facts, you did not, the Court found, and I don't have any question in my mind about it, that *(129) you did not comply with the request of information that is in the form and that was specifically in the indentification of sources of the income, and on that basis you did not answer and provide the information and that is the violation of Section 102.02 [C]. So that's the finding of the fact and that is the law that the finding was based on.

MR. MORGAN: I think the State, your Honor, has violated the law known as mala prohibita in that the answers that

I asserted on the form were lawful answers as secured me by the Constitution of the United States.

THE COURT: All right, well, obviously by my finding I have found differently than that. That may be something you wish to challenge beyond this Court, but as far as this Court is concerned, the law, as it exists, is clear, and the facts in this case are just as clear, and there was not a compliance with the law. The Motion, having been answered in that regard, is there something further you wish to be heard on before sentencing? You do have the right to make a statement before we would proceed with sentencing. *(130)

MR. MORGAN: Well, your Honor, I think that we're in a warfare in this country. And it's a vicious war. There are the forces of those who would subject us to the tyranny of an all-

powerful dictatorial government, and there are those forces who would secure the liberties and freedom under God, that the founding fathers intended us to have. I like to think that I'm in the forces of the latter. However, I do believe beyond a reasonable doubt, that this war will exclude no one. We can serve neither two masters. We have to serve one or the other. There will not be any deserters or conscientious objectors, or anything else. We are forced to serve one or the other. And I stand here before this Court, proud that I have asserted my liberties as secured under God, and feel no remorse for what I've done. In fact, I feel that this Court has erred in it's finding, and pursuant to Rule, I believe the rule gives me thirty days to file a Notice of Appeal. I want this Court to be made aware that I have

already made arrangements for a completed transcript, including today's hearing.

THE COURT: Do you wish to have this statement serve as your Notice of Appeal? On the record, your statement is on *(131) the record at this time.

MR. MORGAN: Well, your Honor, let me...THE COURT: Your certainly entitled to make the Notice on the record, so I will treat this as Notice so that you're protected in that regard.

MR. MORGAN: Well, I would like to clarify and expand upon that if I may.

THE COURT: You certainly may.

MR. MORGAN: The Rules of Appellate Procedure give the Appellant thirty days from the filing of the final Entry, and the judgment. Now I understand that the finding was made on the 23rd of October. And being that I'm not an attorney, I need the time to

prepare my brief, and I need the time to look up the law and to halfway present what I feel is an appropriate appeal, and I would like to advise the Court that I am appealing this finding, but I don't want to file the Notice of Appeal until, in other words, I want to use all the time the Court will allow. But I do state for the record that I intend to *(132) appeal the finding of this Court.

THE COURT: All right, well, this will certainly serve as the notice of that so that you would be protected in that regard, whether, how much time you have to prepare the appeal will be controlled by the Rules of the Appellate Court, once we have disposed of the case at this level.

MR. MORGAN: And then, in addition, your Honor, I would like to ask for a Stay

of Execution pending my lawful rights to appeal.

THE COURT: Well, your request is premature, but I'll allow it to be renewed after sentencing this morning.

MR. MORGAN: Okay, thank you sir, I think when I said that I would reiterate that at all times I have attempted to act in good faith, minus any criminal intent and I, the only desire that I have is to stand up for the liberties and freedoms that I believe our founding fathers handed down for us to protect. And I think my pleadings and my prior filings before this Court makes clear that. And saying that, I trust in the ultimate judge of the Universe, if this conviction is upheld after my appeal. I have nothing further to say. *(133)

THE COURT: All right, well, in proceeding with sentencing, Mr. Morgan,

I think it's important to point out, that the law that's involved here is concerned with protecting a number of the ideas and beliefs that you are concerned with in having enforced. This particular section of the law was enacted to protect us from the big moneyed interest and the special interest groups from influencing the outcome of elections of public servants. The whole idea and philosophy behind this section of law is to require those persons willing to serve in public office to provide proof that they are not violating the rules of impartiality by having special interest groups controlling them or having candidates beholden to special interest groups or to have other monetary interests that are either illegal, or prohibited by law or not worthy of persons who would serve public office.

I'm not indicating in any way that you have any of those problems in your background, however, by requiring this form, every candidate for public office, anyone willing to serve in the community in a public role, is required to offer some mimimal [SIC] proof that they are above-board in regard to their finances. It's interesting to note that the requirement is only to identify sources of income, not *(134) how much and not specifically from who. In your case, if it is a business, it's enough to indentify the source as the business, without regard to specific client lists, of people you do work for, or how much your paid, I believe it's a very important law in regard to the protection of the same constitutional rights that you are espousing.

In passing sentence, I'm going to impose a fine of $100.00 and costs, and

I'm also going to impose a five-day jail sentence. I'm going to suspend $50.00 of the fine and all of the jail sentence. I'm going to place you on probation with this Court. It will be for a period of ninety days, with the requirement that you comply with the section of the law that is involved here by providing that information as to the source of income, within or by November 21, 1986. Now, I understand that you've indicated by your comments that you wish to serve notice on the Court that you intend to appeal. I will accept that notice as being made on the record at this time and I will grant your request for stay of execution of this sentence until you've had the right to perfect that appeal and had the time to do that. So the sentencing will be stayed for thirty days from this date, and will come back for

review, primarily for this Court to see whether or not the *(135) appeal has been perfected at that time, or if the stay would be lifted and the sentence be imposed.

MR. MORGAN: There won't be any need for me to come back if I filed the Notice of Appeal and paid the requisite Federal Reserve Notes?

THE COURT: I can't provide you with the legal advise, but the perfecting of the appeal would mean that there would be something filed and pending before the Court of Appeals for this Court to review. I would want to see that you had taken steps to put it before the Court of Appeals. If nothing has been done in thirty days to get it in front of the Court of Appeals for their consideration, then I would act on the Stay of Execution and put the sentence in effect.

MR. MORGAN: Well, respectfully...

THE COURT: I'll give you a date, I'll let you make another statement, but I'll give you the date this will come back for my review, and that would be December 3, which would be a month, and that would be at 9:00 o'clock.

MR. MORGAN: Do I understand that I have until December 3rd to *(136) file a Notice of Appeal?

THE COURT: No, the time within which to file an appeal will be controlled by the Rules of the Appellate Court. This is just a review being set by this Court.

MR. MORGAN: Okay.

THE COURT: The stay of execution is being put in effect from today until December 3rd. I'll review it and see whether or not I will continue the Saty of Execution pending appeal, or whether

I will impose the sentence at that point.

MR. MORGAN: Okay. THE COURT: So it will come back for my review on December 3rd at 9: o'clock.

MR. MORGAN: Your Honor, respectfully, I don't think that I could file the form in any different fashion than what I already have. And I espouse what you have said you espouse, and that is the Constitutional liberties and freedoms that our founding fathers forged for us to secure, so I think on that note, that there is a difference in opinion and a difference in understanding of law of which that would be one of the things I would appeal.

THE COURT: All right, that's all this morning.

MR. MORGAN: Thank you.

*(1) IN THE COURT OF APPEALS FOR CLARK COUNTY, OHIO

STATE OF OHIO CASE NO. 2294

Plaintiff-Appellee

v.

RAY MORGAN

Defendant-Appellant

O P I N I O N [sic]

Rendered the 28th day of May, 1987.

. . . . . .

ALBERT STEWART, JR., Assistant Prosecuting Attorney, 25 N. Fountain Avenue, Springfield, OH 45502
Attorney for Plaintiff-Appellee

RAY MORGAN, 4112 Vernon Asbury Road, South Vienna, OH 45369
Defendant-Pro Se

. . . . . .

FAIN, J.

Defendant-appellant Ray Morgan was an unsuccessful candidate for the office of Clark County Commissioner whose name first appeared on the ballot in the

general election held November 6, 1984 [Tr. 18-20, 33, 85, 123-125] See also, Defendant's Exhibit 3 at 34-35, Defendant's Exhibit 4. On October 18, 1984, the Ohio Ethics Commission sent Mr. Morgan a certified letter informing him that according to the Commission's records he had not yet submitted a financial disclosure statement for calendar year 1983 as he was required to do under *(2) R.C.102.02.' The letter requested that Mr. Morgan file a

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*(2)' R.C. 102.02 [A] states that every person who is elected to or is a candidate for a state, county, or city office must file a financial disclosure form with the appropriate ethics commission. R.C. 102.02 [A] goes on to list the substantive information which must be provided in this form and states that these forms are subject to public inspection. R.C. 102.02 [C] states that "[n]o (sic) person shall knowingly fail to file a statement that is required by this section." According to R.C. 102.99 [A] a violation of R.C. 102.02 [C] is a misdemeanor of the forth degree. Under R.C. 2929.21, a forth degree misdemeanor carries a possible penalty of imprisonment not to exceed thirty days and/or a fine of no more than $250.

financial disclosure form with the Commission by November 2, 1984. It appears that after making two unsuccessfull attempts to notify Mr. Morgan, the post office returned the letter to the Ethics Commission on November 3, 1984 [Tr. 25, 33-34, 79-80, 93-94]. See also, Defendant's Exhibit 3 at 14-16, States Exhibit 2.

From the record, it was apparently Mr. Morgan's contention during the proceedings below that he did not receive a financial disclosure form when he filed his petition of candidacy with the Clark County Board of Elections and that it was only through his own research that he discovered that he was statutorily required to file a financial disclosure statement [Tr. 20-21, 90-91]. See also, Defendant's Exhibit 3 at 4, 33, 38. It also appears to have been Mr. Morgan's contention that he

had been unaware that the certified letter had been sent by the Ohio Ethics Commission [Tr. 25-26]. See also, Defendant's Exhibit 3 at 25.

Ruth Hall, the financial disclosure coordinator for the Ohio Ethics Commission, testified that Mr. Morgan called the *(3) Commission offices in October of 1984 and told her that it was inconvenient for him to go to the post office as he lived in a remote rural area. Ms. Hall testified that she sent Mr. Morgan a copy of the financial disclosure form that day via regular mail [Tr. 23-26, 28-29]. See also, Defendant's Exhibit 3 at 17, States Exhibit 1.

On December 14, 1984, Mr. David Freel, counsel for the Ohio ETHICS Commission, sent a letter to the Clark County Sheriff's Department to serve notice on Mr. Morgan that a complaint had been

filed against him alleging that he had violated R.C. 102.02 and that a hearing on the matter had been scheduled for January 17, 1985 [Tr. 34-35, 66-67]. See also, Defendant's Exhibit 3 at 18-22, State's Exhibit 3. According to the record, the Clark County Sheriff's Department served Mr. Morgan with notice of the hearing on December 17, 1984. See, State's Exhibit 3.

Mr. Morgan came to the hearing and submitted a financial disclosure form dated November 2, 1984 to Mr. Freel, who was representing the Ohio Ethics Commission at the hearing. See, Defendant's Exhibit 3 at 1-2. However, in response to questions six through twelve, the questions pertaining to sources of income, gifts, investments, interests in real estate and names of debtors and creditors, Mr. Morgan wrote "SEE ATTACHED STATEMENT[.]" (SIC) In a

five-page memorandum attached to the financial disclosure statement, Mr. Morgan asserted his privilege against *(4) self-incrimination under the Fifth Amendment to the United States Constitution and refused to provide the requested information. Mr. Morgan also cited Article I, Section 10 of the federal Constitution and various provisions of the United States Code for the proposition that the only constitutionally permissible form of currency in the United States are gold and silver coin. Mr. Morgan reasoned that as he received no "lawful money" for that period, and therefore had nothing to disclose.[2] See, State's Exhibit 4.

In his report to the Ethics

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*(4)[2]R.C. 102.02 [A] [2] requires the disclosure of sources of "income." We do not read "income," as used in the statute, as limited to "lawful money." "Income" could include, for example, income in kind.

Commission, the hearing examiner concluded that as Mr. Morgan had failed to provide the information required by R.C. 102.02[A], he had knowingly failed to file a financial disclosure statement. According to the hearing examiner, the facts of the case constituted a violation of R.C. 102.02[C].* See, Defendant's Exhibit 4.

At a meeting held on April 11, 1985, the Ohio Ethics Commission adopted the findings of the hearing examiner and determined that the matter should be referred to the appropriate prosecutorial agency for further action [Tr. 38-39, 55-56, 58- *(5) 61, 68-69, 109].*

See also, Defendant's Exhibit 6.

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(4) Mr. Morgan filed objections to the hearing examiner's report, replete with biblical citations and a history of the Fifth Amendment. See, Defendant's Exhibit 5.

(5) Under R.C. 102.06, the Ohio Ethics Commission has no independent prosecutorial authority.

As a result of the Commission's decision, Mr. Freel contacted the Clark County Prosecutor's office in May of 1985 [Tr. 69-70]. On June 12, 1985, Mr. David E. Smith of the Clark County Prosecutor's office sent Mr. Freel a letter stating that the facts of the case disclose a possible violation of R.C. 102.02[C], a fourth-degree misdemeanor. According to the letter, misdemeanor prosecutions in Clark County were brought in the Springfield Municipal Court by the court's prosecutorial staff, which was employed by the City of Springfield. The letter suggested that Mr. Freel contact Mr. Patrick Bonfield, Springfield City Law Director. On June 18, 1985, Mr. Freel sent Mr. Bonfield a letter asking that the Springfield City Law Department review the file on Mr. Morgan's case [Tr.

69-71, 74-75]. See also, State's Exhibit 6.

Acting on behalf of the Ohio Ethics Commission, Mr. Freel signed a complaint against Mr. Morgan on July 29, 1986. See, Item 1 of the Transcript of Docket Entries. A trial to the court was held in the Springfield Municipal Court on September 22, 1986 and continued to September 24. On October 23, 1986, the trial court entered a finding that Mr. Morgan was guilty of violating R.C. 102.02[C]. See, Item 1 and Item 35 of the Transcript of Docket Entries. From the trial court's finding of *(6) guilt and sentence and fine imposed thereon, Mr. Morgan hereby appeals to this Court, presenting seven assignments of error. As the first two assignments of error are closely related, we will consider them together.

FIRST ASSIGNMENT OF ERROR

THE OHIO ETHICS COMMISSION, A DEPARTMENT OF THE STATE, SUBJECTED THIS APPELLANT TO A FOREIGN JURISDICTION; AND THE TRIAL COURT FAILED IN ITS RESPONSIBILITY TO BE AN AMELIORATING FORCE IN UPHOLDING THE 'FINDING' THAT THIS APPELLANT WAS CRIMINALLY GUILTY OF THE CHARGE OF KNOWINGLY FAILING TO FILE A FINANCIAL DISCLOSURE STATEMENT IN VIOLATION OF OHIO REVISED CODE SECTION 102.02[C].

SECOND ASSIGNMENT OF ERROR

THE TRIAL COURT ERRED IN UPHOLDING THE CRIMINAL CHARGE OF "KNOWINGLY FAILING TO FILE A FINANCIAL DISCLOSURE STATEMENT", AS IT IS AGAINST THE MANIFEST WEIGHT OF EVIDENCE, AND SUBJECTED THIS APPELLANT TO A FOREIGN JURISDICTION.

In his first two assignments of error, Mr. Morgan presents a miscellany of attacks on R.C. 102.02, the actions of the Ohio Ethics Commission, and the decision of the trial court. His primary point of contention appears to be that the financial disclosure requirements set forth in R.C. 102.[A] are contrary to both the Ohio Constitution and the United States

Constitution. We note that while we have been unable to find a decision in Ohio which expressly considers the constitutionality of R.C. 102.02, our research discloses that similar statutes in other jurisdictions have been challenged, sometimes successfully, on *(7) various constitutional grounds. See generally, Annotation, Validity and Construction of Orders and Enactments Requiring Public Officers and Employees, or Candidates for Office, to Disclose Financial Condition, Interests, or Relationships [1983], 22 A.L.R. 4th 237.

In the case at hand, Mr]O.(SIC) Morgan's first attack on R.C. 102.02 appears to be that the statute impermissibly interferes with what he considers to be his right under Article

I, Section 2 of the Ohio Constitution to take an active role in government.[5] However, contrary to Mr. Morgan's assertions, we find no support for his argument that there is a fundamental right to run for elected office.

While the United States Supreme Court held in Bullock v. Carter [1972], 405 U.S. 134, that statutes which affect candidates may be strictly scrutinized if they have a secondary impact on the exercise of voting rights, the Court did not adopt a rule that regulations on candidacy are per se unconstitutional. In the present case,

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*(7)[5] Article I, Section 2 of the Ohio Constitution provides as follows:

All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary; and no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the general assembly.

there is no suggestion *(8) by Mr. Morgan that R.C. 102.02 discriminates against certain candidates or has the effect of preventing certain segments of the population from being represented in the electoral process. In our opinion, the mere fact that Mr. Morgan finds the financial disclosure requirements of R.C. 102.02[A] inhibitory is not enough to invoke a heightened degree of judicial scrutiny. See, Plante v. Gonzales[C.A.5, 1978], 575 F. 2d 1119, 1126.

Mr. Morgan also argued extensively during the proceedings below that were he to comply with R.C. 102.02, the information he would provide might possibly serve as a link in a chain of evidence against him in a future criminal prosecution. Therefore, according to Mr. Morgan, to punish him for refusing to provide this

information forces him to waive his privilege against self-incrimination. For the reasons set forth below, we find this argument unpersuasive.

We note first that R.C. 102.02 is essentially regulatory and noncriminal in nature; criminal penalties only attach when an individual knowingly fails to provide the requested information or else files a false statement. R.C. 102.02[C] and [D]. We note also that while the general public is not subject to R.C. 102.02, the financial disclosure requirements apply uniformly to all state, county and city officials and all those who wish to run for these offices. The statute does not attempt to single out a few individuals engaged in inherently suspicious activities and we do not consider running for public office to be an area permeated by criminal statutes. See, Albertson v.*(9)

Subversive Activities Control Board [1968], 390 U.S. 39; Leary v. United States [1969], 395 U.S. 6. While Mr. Morgan did elicit testimony from Mr. Freel that the information contained in a financial disclosure form could be introduced at a criminal trial [Tr. 118-119], we do not believe that remote possibility that this information might surface in a later criminal trial is enough to invalidate an essentially regulatory statute such as R.C. 102.02. See, California v. Byers [1971], 402 U.S. 424.

Furthermore, we do not see how it can reasonably be argued that an individual is "compelled" to provide information under R.C. 102.02. A candidate who does not wish to comply with the statute has the options of either not running for office or else withdrawing from the race and possibly being relieved of his

responsibility to provide a financial disclosure form.*

Since seeking elective office is not a fundamental constitutional right

[Bullock v. Carter, supra], the requirement of financial disclosure does not impermissibly condition one fundamental constitutionally-protected right [running for elective office] upon the waiver of another fundamental constitutionally-protected right [the privilege against self-incrimination].

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*(9) In Advisory Opinion No. 75-031, the Ohio Ethics Commission stated that a candidate for city council who voluntarily withdraws from the election within twenty days after filing his petition of candidacy is no longer a 'candidate' for purposes of R.C. 102.02[A]. Although the opinion does not state whether this time limit would apply to candidates for other public offices, we believe that it clearly suggests that the interest in financial disclosure is reduced in the event of a short-lived campaign.

*(10) For the reasons outlined above, we conclude that R.C. 102.02 is not incon-sistent with the self-incrimination clause of the Fifth Amendment.

A similar problem would be whether a financial disclosure statute such as R.C. 102.02 violates the "confidentiality" strand of the right to privacy by requiring a public official or a candidate for office to reveal to the general public information in which he might otherwise have a reasonable expectation of privacy. See, Plante v. Gonzales, supra, at 1132-1138; Slevin v. City of New York [S.D.N.Y. 1982], 551 F. Supp 917, 929-948. See generally, Comment, Privacy Limits on Financial Disclosure Laws: Pruning Plante v. Gonzales [1979], 54 N.Y.U.L. Rev. 601. As with his privilege against self-incrimination, however,

Mr. Morgan had available to him the simple and not very onerous option of not running for office. Candidates for elective office cannot reasonably expect the same degree of privacy enjoyed by non-candidates. The recent demise of Senator Gary Hart's presidential candidacy is an extreme example of the lowered privacy expectations of candidates for public office.

Mr. Morgan did not raise this issue. Therefore, we need not decide the extent and effect of his reasonable expectations of privacy.

Mr. Morgan also appears to claim that the Springfield Municipal Court lacked jurisdiction to hear this case as the Clark County Court of Common Pleas had concurrent jurisdiction and the jurisdiction of that court was first to be invoked by the *(11) Ohio Ethics Commission. Mr. Morgan apparently bases

his claim on the fact that the Ohio Ethics Commission chose to provide him with notice of the administrative hearing through the Clark County Court of Common Pleas. In Mr. Morgan's view, this act vested the common pleas court with exclusive jurisdiction to hear this case.

Under R.C. 2931.03. courts of common pleas have original jurisdiction over all crimes and offenses, except in cases of minor offenses the exclusive jurisdiction of which is vested in inferior courts. Unless an inferior court is given exclusive jurisdiction, the common pleas court has jurisdiction of misdemeanors. See, 26 Ohio Jurisprudence 3d [1981] 407, Criminal Law, Section 667. In the present case, while the Springfield Municipal Court has jurisdiction within Clark County under R.C. 1901.02, we find nothing in R.C.

Chapter 102.02, or elsewhere, that gives that court the exclusive ability to hear violations of R.C. 102.02. Therefore, Mr. Morgan's claim that the Clark County Court of Common Pleas and the Springfield Municipal Court had concurrent jurisdiction over the present case appears to be correct.

However, as between courts of concurrent jurisdiction, the court whose power is first invoked by the commencement of proper proceedings acquires jurisdiction to the exclusion of all other tribunals. State, ex rel. Phillips v. Polcar [1977], 50 Ohio St. 2d 279, paragraph one of the syllabus. See generally, 22 Ohio Jurisprudence 3d [1980] 494, Courts and Judges, Section *(12) 321. In the case at hand, we do not believe that the Ohio Ethics Commis-sion's earlier decision to provide Mr. Morgan with notice of the

administative hearing through the Clark County Court of Common Pleas invoked the jurisdiction of that court to hear the instant criminal action. Jurisdiction to hear and to decide misdemeanor complaints is properly invoked by the filing of a complaint; hence the jurisdiction first invoked was that of the Springfield Municipal Court by way of the complaint initiated by Mr. Freel on July 29, 1986. Therefore, that court had juris-diction to determine the case.

Mr. Morgan also seems to feel that the prosecution against him was barred due to the lengthy period of time which went by between the time Mr. Freel initially contacted the Springfield City Law Department and the filing of the complaint.[7] According to Mr. Morgan, the prosecution was not timely brought.

*(12) 7As discussed in the statement of facts, Mr. Freel first referred this matter to the Springfield City Law Department on June 18, 1985. The complaint was not filed until July 29, 1986.

In support, Mr. Morgan relies upon the following language in R.C. 102.06: "***[SIC] if the commission has not scheduled a hearing within ninety days after the complaint is filed or has not finally disposed of the complaint within six month [SIC] after it has been heard, it shall dismiss the complaint[.]"[SIC] In our opinion, Mr. Morgan's reliance on this provision is misplaced. As we read the above-quoted language, it states the time within which the Ohio Ethics Commission must take action on a complaint; *(13) not the time within which a prosecution for a violation of R.C. 102.02[C] must be brought. Since R.C. 102.99 makes a

violation of R.C. 102.02[C] a fourth degree misdemeamnor, the applicable limitation period is set forth in R.C. 2901.13 which states that a prosecution for a misdemeanor other than a minor misdemeanor shall be barred unless commenced within two years after the offense is committed. Under R.C. 102.02[A], a candidate for elected office is required to file a financial disclosure statement no later than the thirtieth day before the election at which his candidacy is to be voted on. Thus, Mr. Morgan was required to file his form no later than thirty days before the general election held November 6, 1984. As Mr. Morgan had not yet provided a financial disclosure form as of October 5, 1984, every element of the offense had occurred as of that date and the applicable statute of limitations began to run. Since the

prosecution was initiated within two years of that date, we believe that it was timely brought.

We gather from the wording of his second assignment of error that Mr. Morgan is also arguing that the trial court's finding of guilt is against the manifest weight of the evidence. In response, we note the frequently stated maxim that a judgment supported by competent, credible evidence going to all the essential elements of the case, sufficient to convince a reasonable mind of guilt beyond a reasonable doubt, will not be reversed by a reviewing court as being against the manifest weight of the evidence. C.E. Morris v. Foley Construction*(14) Co. [1978], 54 Ohio St. 2d 279; State v. Awan [1986], 22 Ohio St. 3d 120. After a review of the record, we conclude that the trial court's finding that Mr.

Morgan violated R.C. 102.02[C] is supported by substantial evidence.

Finally, Mr. Morgan vehemently argues that he has been subjected to a "foreign jurisdiction" and that as a "citizen of the common law" he is only required to pay heed to acts of "de jure" government. So far as we are able to determine, Mr. Morgan is essentially arguing that the enactment of R.C. 102.02 and the establishment of the Ohio Ethics Commission to oversee compliance with the statute amount to unconstitutional acts by the Ohio legislature and are therefore of no effect. In response to this argument, we note the fundamental rule that a legislative enactment carries with it a strong presumption of constitutionality. Mills v. Dayton [1985], 21 Ohio App. 3d 208; State v. Longhorn World Championship Rodeo, Inc. [1985], 19 Ohio App. 3d

115. See generally, 16 Ohio Jurisprudence 3d [1979] 287-291, Constitutional Law, Sections 156-158. As the person challenging the validity of R.C. 102.02, Mr. Morgan has the burden of clearly demonstrating the unconstitutionality of that statute. Hudson v. Albrecht, Inc. [1984], 9 Ohio St. 3d 69.

We believe that the State of Ohio has a compelling interest in keeping the electorate informed, identifying and avoiding conflicts of interest, and maintaining public confidence in public officials. In our opinion, Mr. Morgan has failed to show that R.C. Chapter 102 is an unconstitutional means of achieving these goals.

*(15) We also do not believe that the Ohio General Assembly unconstitutionally delegated legislative authority when it created the Ohio Ethics

Commission to administer and to enforce R.C. 102.02. See, Pennsylvania State Ass'n of Twp. Supervisors v. Thornburgh [1979], 45 Pa. Commw. 361, 405 A.2d 614.

Mr. Morgan claims that R.C. 102.02 is part of a "Luciferian" conspiracy to subvert the Constitution. The determination of the existence or non-existence of a Luciferian conspiracy to subvert the U.S. Constitution is beyond the proper scope of this Court's appellate review. Ours is not an ecclesiastical court.

The first and second assignments of error are overruled.

THIRD ASSIGNMENT OF ERROR

THE TRIAL COURT ERRED AND SUBJECTED THIS APPELLANT TO IRREPAIRABLE (SIC) HARM WHEN IT DENIED HIM THE RIGHT TO FACE HIS ACCUSERS RESULTING IN A DENIAL OF A FAIR TRIAL.

It appears from the record that on September 11, 1986, Mr. Morgan

requested that the Springfield Municipal Court issue subpoenas for all the members of the Ohio Ethics Commission. See, Item 14 through Item 21 of the Transcript of Docket Entries. However, it also appears that the Franklin County Sheriff's Department later returned these subpoenas to the Springfield Municipal Court on September 15, 1986, as being unable to be served due to a lack of addresses. See, Item 24 of the Transcript of Docket Entries.

*(16) On September 18, 1986, the prosecutor filed a motion to quash Mr. Morgan's subpoenas on the members of the Ohio Ethics Commission which was granted by the trial court [Tr. 81-83]. According to Mr. Morgan, the trial court's decision to grant the motion to quash deprived him of his confrontation

rights under the Sixth Amendment to the United States Constitution.

We believe that in order to establish a violation of his Sixth Amendment rights to confront the witnesses in his favor, Mr. Morgan must demonstrate that he was deprived of testimony which would have aided him in his defense. See, Washington v. Texas [1967], 388 U.S. 14; United States v. Valenzuela-Bernal [1982], 458 U.S. 858; Rubio v. Estelle [C.A.5, 1982], 689 F. 2d 533. Mr. Morgan's argument that had the Commission members been present at trial he could have questioned them to determine whether each of them had taken an oath to uphold the Constitution is insufficient to show that he was prejudiced in the presentation of his defense by the absence of the Commission members. Whether the members of the Commission had taken the

required oath of office might be material in an action in quo warranto to oust them from office; but, since they clearly held at least colorable claims to their offices, their official status could not be collaterally attacked, even if they had not taken the required oath of office. Also, as Mr. Freel was present throughout the trial with all of the Commission's *(17) records pertaining to Mr. Morgan, we believe that any testimony by the Commission members themselves would have been merely cumulative. We cannot hold that the trial court abused its discretion in quashing these subpoenas in the absence of any showing of materiality of the testimony.

The third assignment of error is overruled.

FOURTH ASSIGNMENT OF ERROR

THE TRIAL COURT ERRED AND SUBJECTED THIS APPELLANT TO IRREPAIRABLE (SIC)

HARM WHEN IT DENIED APPELLANT'S MOTION FOR COUNSEL OF CHOICE, OR IN THE ALTERNATIVE A 'CLERK' TO ASSIST HIM ON BEHALF OF HIS DEFENSE.

On August 6, 1986, Mr. Morgan filed a motion in the trial court asking that he be allowed to have the assistance of counsel in preparing his defense. However, Mr. Morgan did not provide the name of the individual he wished to have represent him. (SIC) Rather, Mr. Morgan argued at length that it was contrary to both the Constitution and the Bible to interpret the word "counsel" to mean only those admitted to the practice of law. See, Item 3 of the Transcript of Docket Entries. The trial court held that since only a person licensed to practice law in the State of Ohio could act as an attorney on Mr. Morgan's behalf, the motion would be denied as it could not be determined whether Mr. Morgan's

proposed counsel was admitted to the *(18) practise of law.* The court also denied Mr. Morgan's request that he be allowedto have a "clerk" with him at counsel table during the trial to assist in the presentation of his defense [Tr. 8-9, 86-87]. In Mr. Morgan's view, the trial court's ruling was overly restrictive and violative of his right to counsel under the Sixth Amendment to the United States Constitution.

Mr. Morgan cites no authority in support of his contention on appeal that a criminal defendant has a constitutional right to have the assistance of lay counsel at trial. While the United States Supreme Court held in

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(18) R.C. 4705.01 states that no person may act on behalf of another before the courts and administrative tribunals of Ohio unless that person has been admitted to the bar by order of the Ohio Supreme Court, Gov. Bar. R. I sets forth the requirements for admission to the practice of law in Ohio.

Faretta v. California [1975], 422 U.S. 806, that a criminal defendant has a right under the Sixth Amendment to represent himself at trial, we find no specific pronouncement by the Court on the question of whether a defendant has a constitutionally protected right to choose to be represented by a lay individual. Moreover, the lower federal decisions we have been able to locate which consider this issue hold without exception that the Sixth Amendment does not confer upon a criminal defendant the right to select an unlicensed individual to act as his representative (SIC) or *(19) advisor (SIC) at trial.* United States v. Thibodeaux [C.A.7, 1985], 758 F. 2d 199; United States v. Taylor [C.A.7, 1978], 569 F. 2d 448, certiorari denied [1978], 435 U.S. 952; United States v. Whitesel [C.A.6, [1976], 543 F. 2d 1176,

*(19) *However, we have found one decision, Terpstra v. Farmers and Merchants Bank [Ind. App. 1985], 483 N.E. 2d 749, in which an Indiana appellate court suggested that it may be within a trial court's discretion to allow a litigant to have a lay individual with him at counsel table to provide clerical assistance.

[C.A.7, 1985], 758 F. 2d 199; United States v. Taylor [C.A.7, 1978], 569 F. 2d 448, certiorari denied [1978], 435 U.S. 952; United States v. Whitesel [C.A.6, [1976], 543 F. 2d 1176, certiorari denied [1976], 431 U.S. 967; United States v. Wright [C.A.8, 1978], 568 F. 2d 142; Fair v. Given [N.D. Ind. 1981], 509 F. Supp. 1086; Turner v. American Bar Ass'n [N.D. Tex., W.D. Pa., N.D. Ind., D. Minn, S.D. Ala., W.D. Wis. 1975], (SIC) 407 F. Supp. 451, affirmed subnom. Taylor v. Montgomery [C.A. 7, 1976], 539 F. 2d 715, also affirmed sub nom. Pilla v. American Bar Ass'n. [C.A.8, 1976], 542 F. 2d 56. See generally, Comment, The

Criminal Defendant's Sixth Amendment Right to Lay Representation [1985], 52 U. Chi. L. Rev. 460.

In our opinion, these decisions are well-supported by reason. The State has a compelling interest, deeply rooted in history, in regulating the practice of law and ensuring that those admitted to the bar meet certain ethical and professional standards. See, Turner v. American Bar Ass'n., supra, at 472-475. To Read the Sixth Amendment as providing criminal defendants with an unqualified right to be represented by lay *(20) individuals would amount to an acknowledgement of an unofficial bar and would compromise the state's compelling interest in regulating the practice of law. As we find no support for Mr. Morgan's contention that there is a constitutional right to be represented (SIC) by a lay individual

and as there is no indication in the record that the person Mr. Morgan wished to have assist (SIC) him at trial was admitted to the practice of law in Ohio, we believe that the trial court properly denied Mr. Morgan's motion.

The fourth assignment of error is overruled.

FIFTH ASSIGNMENT OF ERROR

THE TRIAL COURT ERRED IN REFUSING THIS APPELLANT TO ELICIT TESTIMONY FROM HIS SUPOENAED (SIC) WITNESS, FORMER SHERIFF OF CLARK COUNTY, DONALD E. SANDERS; THAT IN FACT A FILING OF A FINANCIAL DISCLOSURE STATEMENT 'FORM' COULD BE USED, AND SUBSEQUENTLY WAS USED AGAINST MR. SANDERS, TO ACCOMPLISH A CRIMINAL CONVICTION THAT RESULTED IN HIS REMOVAL FROM ELECTED OFFICE. (THE TRANSCRIPT DOES NOT SHOW THIS, AS THIS APPELLANT WAS NOT ALLOWED TO ELICIT MR. SANDERS TESTIMONY.)

On September 11, 1986, Mr. Morgan filed a request that the Springfield Municipal Court issue a subpoena for Donald Sanders, the former sheriff of Clark County. See, Item 21 of the

Transcript of Docket Entries. The record states simply that Mr. Sanders was called to the stand at trial but no testimony was given [Tr. 117]. According to Mr. Morgan, he sought to have Mr. Sanders testify that he was removed from office due to a criminal prosecution which was brought against him as a result of information he provided in a financial disclosure form. Mr. *(21) Morgan Claims that the trial court erroneously prevented him from eliciting this testimony.

Assuming arguendo that Mr. Morgan's statement of what happened below is correct, we find nothing in the record to indicate that he made the trial court aware of what the substance of Mr. Sanders' testimony would have been. Absent such a proffer, Mr. Morgan may not assign as error the trial court's

decision to exclude the testimony of Mr. Sanders. Evid. R. 103[A][2].

The fifth assignment of error is overruled.

SIXTH ASSIGNMENT OF ERROR
THE TRIAL COURT ERRED IN REFUSING THE APPELLANT TO CHALLENGE JURISDICTION OF A CRIMINAL PROSECUTION, PRIOR TO THE ARRAIGNMENT.

In his sixth assignment of error, Mr. Morgan argues that the trial court erroneously refused to allow him to challenge the jurisdiction of the Springfield Municipal Court prior to his arraignment. According to Mr. Morgan, no record exists of his attempt to challenge the jurisdiction of the trial court as the tape recording of the arraignment was lost.

The purpose of arraignment is to inform the defendant of the charges against him and ask that he plead to those charges. Crim. R. 10[A]. A defendant may plead not guilty, not guilty by reason of insanity, guilty or no contest. Crim. R. 11[A]. While there is no specific provision in either Crim. R. 5 or Crim. R. 10 which expressly permits a defendant to challenge jurisdiction *(22) at his initial appearance or at his arraignment, Crim R 12[B][2] (SIC) states that an objection based on failure to show jurisdiction shall be noticed by the trial court at any time during the pendency of the proceedings.

However, as appellant in this case, Mr. Morgan carries the burden of providing this Court with a transcript for review. App. R. 9[B]; State v

Skaggs [1978], 53 Ohio St. 2d 162; Knapp v. Edwards Laboratories[1980], 61 Ohio St. 2d 197. Although the record of the arraignment was lost through no fault of Mr. Morgan's, an alternative procedure was available to him under App.R.9[C]. Absent any record of the arraignment, we have no way of determining the correctness of that proceeding.

The sixth assignment of error is overruled.

SEVENTH ASSIGNMENT OF ERROR

THE ACTIONS OF THE OHIO ETHICS COMMISSION; AND AS A RESULT OF STATES EX. #4 BEING ENTERED INTO EVIDENCE THE TRIAL COURT; ARE BOTH PREJUDICIAL, AND BIASED ERRORS, IRREPAIRABLY (SIC) HARMFUL TO THIS APPELLANT. THE CREDIBILITY OF THE APPELLANT'S CHARACTER, INTENT, AND GOOD FAITH METHOD OF RESPONSIBLE COMPLIANCE OF LAW TO 'PETITION' HIS GOVERNMENT CONCERNING THE COLLATERAL MATTER RAISED IN THE 'FINANCIAL DISCLOSURE FORM', TO WIT: ARTICLE I SECTION 10, CITED INFRA, ARE INDICATIVE TO A COMPLETE AND TOTAL SUPPRESSION OF THE VALIDITY OF HIS CONSTITUTIONAL ASSERTIONS, AND ON THE VERY FACE OF THE MATTER, AN ATTEMPT TO ACQUIESCE AND PERPETUATE A CONTINUATION OF A CONSTITUTIONAL VIOLATION AMOUNTING TO PERVERSION, SUBVERSION, AND A CONQUEST OF CONSTITUTIONAL LAW THROUGH THE MOST GIGANTIC FRAUD AND SWINDLE IN THE HISTORY OF MANKIND.

*(23) In his seventh assignment of error, Mr. Morgan presents an exposition of his theory that gold and

silver coins or notes immediately redeemable in precious metal represent the only forms of currency permissible under the Constitution and the Bible and that Federal Reserve notes which we have come to regard as money are in fact part of a conspiracy to defraud and swindle the American people. Mr. Morgan also argues that even if it is accepted that Federal Reserve notes may pass as legal tender in ordinary commercial transactions, Article I, Section 10 of the United States Constitution requires that obligations owed to the state must be paid in either gold or silver coin. According to Mr. Morgan, as the Ethics Commission and the trial court failed to rule on this issue, it now falls upon this Court to determine the legality of the American monetary system.

The question of the constitutionality of the American monetary system, so far as we are able to determine, appears to be one of first impression in Ohio. However, we have discovered a number of recent decisions from other jurisdictions which consider the precise issues now raised by Mr. Morgan. These decisions uniformly reject the proposition that precious metal is the only constitutionally acceptable medium of exchange or that Article I, Section 10 of the federal Constitution requires that debts owed to the state must be paid in gold or silver. See, Walton v. Keim [Colo. App. 1984], 694 P. 2d 1287; Nixon v. Phillipoff [N.D. Ind. 1985], 615 F. Supp. 890; Spurgeon v. Franchise Tax Board of California [1984], 160 Cal. App. 3d 524, *(24) 206 Cal. Rptr. 636; Larned Production Credit Ass'n. v. E & E Feeding [1982], 8 Kan. App. 2d

263, 655 P. 2d 138; Allnut v. State [1984], 59 Md. App. 694, 478 A. 2d 321; People v. Lawrence [1983], 124 Mich. App. 230, 333 N.W. 2d 525; State v. Gasser [N.D. 1981], 306 N.W. 2d 205; City of Cloton v. Corbly [S.D. 1982], 323 N.W. 2d 138. We believe that the rational of these decisions was well stated by the United States District Court for the Northern District of Indiana, South Bend Divi-sion, in Nixon v. Phillipoff, supra:

Article 1, section 8, clause 5 of the Constitution gives Congress the authority [sic] "[t]o coin money, and regulate the Value thereof***." [sic] This clause gives Congress the exclusive ability to determine what will be legal tender throughout the country. The Legal Tender Cases, 110 U.S. 421, 446, 4 S. Ct. 122, 128-129, 28 L. Ed. 204 [1884]; Veazie Bank v. Fenno, 76 U.S. [8 Wall.] 533, 548, 19 L. Ed. 482 [1869]; United States v. Rifen, 577 F. 2d 1111, 1113 [8th Cir. 1978]. Pursuant to that authority, Congress has declared that

United States coins and currency [including Federal reserve notes and circulating notes of Federal reserve banks and national banks] are legal

tender for all debts, public charges, taxes and dues. Foreign gold or silver coins are not legal tender for debts.

31 U.S.C. Section 5103 [1984] [emphasis supplied]. It is therefore clear that federal reserve notes are legal tender for any debt or public charge.

Nixon's argument is based on Article 1, section 10, clause 1, which mandates that "No State shall *** make anything [sic] but gold and silver coin a Tender in Payment of Debts ***" Nixon asserts that this provision *(25) requires a state to accept and recognize only gold and silver coin as legal tender. The argument fails for several reasons.

First, Nixon's interpretation of Article 1, section 10 creates a rather curious inconsistency with Article 1, section 8, clause 5. If states can only recognize gold and silver coin as legal tender, then Congress does not have complete power to declare what shall constitute legal tender for payment of all debts, for a declaration that a treasury note or federal reserve note was legal tender would fly in the face of the restriction of section 10. While this is the conclusion which Nixon wants this court to reach [in effect declaring federal reserve notes illegal], it flies in the face of the clear import of section 8, clause 5's unrestricted language. The power to coin money necessarily carries with it the power to declare what is money, and the constitution does not limit Congress to gold and silver coin. section [sic] 8 sets forth the powers of Congress. While section 10 imposes a restriction on the states. It strains logic and constitutional interpretation to claim that the framers of the

constitution sought to limit Congress's power to coin money via an implication derived from a restriction directed not at Congress but at the states.

This strain in logic suggests the second reason for the failure of Nixon's argument:

Nixon has misinterpreted the import of section 10's prohibition. Courts have uniformly interpreted section 10 as prohibiting states from declaring anything [sic] other than gold or silver coin as legal tender, The Legal Tender Cases, 110 U.S. at 446, S. Ct. at 129; Rifen, 577 F. 2d at 1113; yet these cases do not interpret section 10 as requiring states to accept only gold and silver as tender, nor could they, as they both recognize the unrestricted power of Congress to declare what shall constitute legal tender, including bills of credit, treasury notes, and federal reserve notes. In short, section 10 acts only to remove from the *(26) states the inherent sovereign power to declare currency, thus leaving Congress the sole declarant of what constitutes legal tender. Thus, the states must abide by the dictates of Congress, and because 31 U.S.C. section 5103 declares that federal reserve notes as legal tender, the states are constitutionally compelled to accept them as legal tender. [Footnote omitted.]

615 F. Supp. at 893

Moreover, assuming that Mr. Morgan, like the rest of us, does not pay for his weekly groceries with gold coins,

it is difficult to understand why complying with the dictates of R.C. 102.02 is any more offensive to his personal belief system than the everyday financial transactions in which he must surely engage.

In conclusion, we submit the following for Mr. Morgan's consideration:

> "*** 'Whose is this likeness and signature?' He asked them. They said 'Caesar's'. He told them, 'Then pay Caesar what is due to Caesar, and God what is due to God.'" Matthew 22:20-21 [Modern Language Bible].

Implicit in this teaching is the idea that Caesar may determine [by the imprimatur of his likeness and signature] in what currency he shall be paid. Accordingly, even the Holy Scripture would seem to command us to overrule Mr. Morgan's Seventh Assignment of Error.

All of Mr. Morgan's assignments of error being without merit, the judgment of the trial court will be affirmed.

Wilson, J. and Brogan.J. concur

Copies mailed to:

ALBERT STEWART, JR.

RAY MORGAN

HON. EUGENE S. NEVIUS

IN THE COURT OF APPEALS FOR
CLARK COUNTY, OHIO

CASE NO. 2294

STATE OF OHIO, VIA OHIO
ETHICS COMMISSION

Plaintiff-Appellee

v.

RAY MORGAN

Defendant-Appellant

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DECISION AND ENTRY

Rendered on the 28th day of July, 1987.

This matter comes before the Court for decision pursuant to Defendant-Appellant Ray Morgan's Motion for Reconsideration of this Court's opinion of May 28, 1987.

The Movant's arguments in support of his Motion for Reconsideration haviong been considered and rejected by this Court in its initial consideration of his appeal, the Motion for Reconsideration is hereby overruled.

s / Richard K. Wilson, Judge; James A. Brogan, Judge; Mike Fain, Judge.

THE SUPREME COURT OF OHIO

COLUMBUS

1987 TERM

To Wit: October 21, 1987

Ohio Ethics Commission,
Appellee, Case No. 87-1383

v. E N T R Y

Ray Morgan,
Appellant.

Upon consideration of the Motion for an order directing the Court of Appeals for Clark County to certify its record, and the claimed appeal as of right from said Court, it is ordered by the Court that said motion is overruled and the appeal is dismissed sua sponte for the reason that no substantial constitutional question exists therein.

COSTS: Motion Fee, $20.00, Paid by Ray Morgan.

s / THOMAS J. MOYER, Chief Justice

I, Marcia J. Mengel, Clerk of the Supreme Court of Ohio, do hereby certify that the foregoing order was correctly copied from the records of said Court, to wit, from the Journal of this Court.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Supreme Court, on this 21st day of October, 1987.

s / MARCIA J. MENGEL - RITA A. JACKSON, DEPUTY.

OHIO REVISED CODE SECTION 102.02:

[A] Every person who is elected to or is a candidate for a state, county, or city office, or the office of member of the United States congress, and every person who is appointed to fill a vacancy for an unexpired term in such elective office, and the director, assistant directors, deputy directors, division chiefs, or persons of equivalent rank of any administrative department of the state, the chief executive officer of each state retirement system, all members of the board of commissioners on grievances and disipline of the supreme court, the ethics commission created under section 102.05 of the Revised Code, every public official or employee who is paid a salary or wage in accordance with schedule C of section 124.15 of the

Revised Code, and every other public official or employee who is designated by the appropriate ethics commission pursuant to division [B] of this section, excluding any person elected or appointed to the office of precinct, ward, or district committee member under Chapter 3517 of the Revised Code, presidential elector, delegate to a national convention, city, exempted village, county, local, and joint vocational school district boards of education, village officials and employees, township officials and employees, any physician or psychiatrist paid a salary or wage in accordance with schedule [C] 124.15 of the Revised Code and whose primary duties do not require the exercise of administrative discretion, and any member of a board, commission, or bureau of any county or city who

receives less than one thousand dollars per year for serving in such position, shall file with the appropriate ethics commission on a form prescribed by the commission, a statement disclosing:

[1] The name of the person filing the statement and each member of his immediate family and all names under which the person or members of his immediate family does business;

[2] Identification of every source of income over five hundred dollars received during the proceding calendar year, in his own name or by any other person for his or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. This division shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or

4732.15 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code. This division shall not be construed to require a person filing the statement who derives income from a business or profession to disclose the individual items of income that constitute the gross income of that business or profession.

[3] The name of every corporation on file with the secretary of state which is incorporated in Ohio or holds a certificate of compliance authorizing it to do business in this state, trust, business trust, partnership, or association which transacts business in Ohio in which the person filing the statement or any other person for his use and benefit had during the preceding calendar year an investment of over one thousand dollars at fair

market value as of the thirty-first day of December of the preceding calendar year, or the date of disposition, whichever is earlier, or in which the person holds any office or has a fiduciary relationship, and a description of the nature of the investment, office or relationship. This division does not require disclosure of the name of any bank, savings and loan association, credit union, or building and loan association with which the person filing the statement has a deposit or a withdrawable share account.

[4] All fee simple and leasehold interests to which the person filing the statement holds legal title to or a beneficial interest in real property located within the state, excluding the person's residence and property used primarily for personal recreation.

[5] The names of all persons residing or transacting business in the state to whom the person filing the statement owes, in his own name or in the name of any other person, more than one thousand dollars. This division shall not be construed to require the disclosure of debts owed by the person resulting from the ordinary conduct of a business or profession or debts on the person's residence or real property used primarily for personal recreation, except that the superintendent of building and loan associations shall disclose the names of all state-chartered building and loan associations and of all service corporations subject to regulation under division [E] [2] of section 1151.34 of the Revised Code to whom the superintendent in his own name or in the name of any other person owes any

money, and that the superintendent of banks and any deputy superintendent shall disclose the names of all state-chartered banks and all banks subsidiary corporations subject to regulation under section 1107.35 of the Revised Code to whom such superintendent or deputy superintendent owes any money.

[6] The names of all persons residing or transacting business in the state, other than a depository excluded under division [A] [3] of this section, who owes more than one thousand dollars to the person filing the statement, either in his own name or to any other person for his use or benefit. This division shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or 4732.15 of the Revised Code, or patients of persons certified under

section 4731.14 of the Revised Code, nor the disclosure of debts owed to the person resulting from the ordinary conduct of a business or profession.

[7] The source of each gift of over five hundred dollars received by the person in his own name or by any other person for his use or benefit during the preceding calendar year, except gifts received by will or by virtue of section 2105.06 of the Revised Code, or received from parents or grandparents, or received by way of distribution from any inter vivos or testamentary trust established by a spouse or an ancestor.

A person who is a candidate for elective office shall file his statement no later than the thirtieth day before the primary, special, or general election at which such candidacy is to be voted on, whichever election occurs sooner, except a person

who is a write-in candidate shall file his statement no later than the twentieth day before the earliest election at which such candidacy is to be voted on. A person who holds elective office shall file his statement on or before the fifteenth day of April of each year, unless he is a candidate for office. A person who is appointed to fill a vacancy for an unexpired term in an elective office shall file his statement within fifteen days after he qualifies for office. Other persons shall file an annual statement on or before the fifteenth day of April, or if appointed or employed after such date, within ninety days after appointment or employment. No person shall be required to file more than one statement for any one calendar year with the appropriate ethics commission.

The appropriate ethics commission may for any good cause extend, for a reasonable time, the deadline for filing a disclosure statement under this section.

A statement filed under this section is subject to public inspection at locations designated by the appropriate ethics commission except as otherwise provided in this section.

[B] The Ohio ethics commission, the house and senate legislative ethics committees, and the board of commissioners on grievance and disipline of the supreme court may, using the rule-making procedures of Chapter 119 of the Revised Code, require any class of public officials or employees under its jurisdiction and not specifically excluded by this section whose positions involve a substantial and material exercise of

administrative discretion in the formulation of public policy, expenditure of public funds, enforcement of laws and rules of the state or a county or city, or the execution of other public trusts, to file an annual statement on or before the fifteenth day of April under division [A] of this section. The appropriate ethics commission shall send the public officials or employees written notice of the requirement by the fifteenth day of February of each year the filing is required, unless the public official or employee is appointed after such date, in which case the notice shall be sent within thirty days after appointment and the filing shall be made not later than ninety days after appointment.

Disclosure statements filed under this division with the Ohio ethics

commission by members of boards, commissions, or bureaus of the state for which no compensation is received other than reasonable and necessary expenses shall be kept confidential. The Ohio ethics commission shall examine each disclosure statement required to be kept confidential to determine whether a potential conflict of interest exists for the person who filed the disclosure statement. A potential conflict of interest exists if the private interests of the person, as indicated by his disclosure statement, might interfere with the public interests he is required to serve in the exercise of his authority and duties in his office or position of employment. If the commission determines that a potential conflict of interest exists, it shall notify the person who filed the disclosure

statement and shall make the portions of the disclosure statement that indicate a potential conflict of interest subject to public inspection in the same manner as is provided for other disclosure statements. Any portion of the disclosure statement that the commission determines does not indicate a potential conflict of interest shall be returned immediately to the person who filed the statement.

[C] No person shall knowingly fail to file a statement that is required by this section.

[D] No person shall knowingly file a false statement that is required to be filed under this section.

OHIO REVISED CODE SECTION 102.06:

The appropriate ethics commission shall receive, and may initiate, complaints against persons subject to Chapter 102 of the Revised Code concerning conduct alleged to be in violation of this chapter. All complaints except those by the commission shall be by affidavit made on personal knowledge, subject to the penalties of perjury. Complaints by the commission shall be by affidavit, based upon reasonable cause to believe that a violation has occurred.

The commission shall investigate complaints and may investigate charges presented to it and may request further information, including the specific amount of income from a source, from any person filing with the commission a statement required by section 102.02 of the Revised Code, if the information

sought is directly relevant to a complaint or charges received by the commission pursuant to this section. Such information is confidential. The person so requested shall furnish the information to the commission pursuant to this section. Such information is confidential. The person so requested shall furnish the information to the commission, unless within fifteen days from the date of the request the person files an action for declaratory judgment challenging the legitimacy of the request in the court of common pleas of the county of his residence, of his place of employment, or of Franklin county. The requested information need not be furnished to the commission during the pendency of the judicial proceedings. Proceedings of the commission in connection therewith, shall be kept confidential

except as otherwise provided by this section. Before the commission proceeds to take any formal action against a person who is the subject of an investigation based on charges presented to the commission, a complaint shall be filed against the person. If the commission finds that a complaint is not frivolous, and there is reasonable cause to believe that the facts alleged in a complaint constitute a violation of section 102.02, 102.03, 102.04, or 102.10 of the Revised Code, it shall hold a hearing if the commission does not so find, it shall dismiss the complaint. The person against whom the complaint is directed shall be given reasonable notice by certified mail of the date, time, and place of the hearing, a statement of the charges and the law directly involved, and shall be given the

opportunity to be represented by counsel, to have counsel appointed for him if he is unable to afford counsel without undue hardship, to examine the evidence against him, to produce evidence and to call and subpoena witnesses in his defense, to confront his accusers, and to cross-examine witnesses. The commission shall have a stenographic record made of the hearing. The hearing shall be closed to the public.

If upon the basis of the hearing, the commission finds based upon a preponderance of the evidence that the facts alleged in the complaints are true and constitute a violation of section 102.02, 102.03, 102.04, or 102.10 of the Revised Code, it shall report its findings to the appropriate prosecuting authority for proceedings in prosecution of violations of Chapter

102. of the Revised Code and to the appointing or employing authority of the accused.

If the commission does not find based upon a preponderance of the evidence that the facts alleged in the complaints are true and constitute a violation of section 102.02, 102.03, or 102.04, of the Revised Code, or if the commission has not scheduled a hearing within ninety days after the complaint is filed or has not finally disposed of the complaint within six months after it has been heard, it shall dismiss the complaint and, upon the request of the accused person, make a public report of the finding, but in such case all evidence and the record of the hearing shall remain confidential unless the accused person also requests that the evidence and record be made public. upon request by the accused person, the

commission shall make the evidence and the record available for public inspection.

The commission, or a member of the commission, may administer oaths, and the commission may issue subpoenas to any person in the state compelling the attendance of witnesses and the production of relevant papers, books, accounts, and records. The commission shall issue any such subpoena upon the request of an accused person. Section 101.42 of the Revised Code shall govern the issuance of such subpoenas insofar as applicable. Upon refusal of any person to obey a subpoena or to be sworn or to answer as a witness, the commission may apply to the court of common pleas of Franklin county under section 2705.03 of the Revised Code. The court shall hold proceedings in accordance with Chapter 2705. of the

Revised Code. The commission or the accused person may take depositions of witnesses residing within or without the state in the same manner as prescribed by law for the taking of depositions in civil actions in the court of common pleas.

At least once each year, the Ohio ethics commission shall report on its activities of the immediately preceding year to the majority and minority leaders of the senate and house of representatives of the general assembly. The report shall indicate the total number of complaints received, initiated, and investigated by the commission, the total number of complaints for which formal hearings were held, and the total number of complaints for which formal prosecution was recommended by the commission. The report shall also indicate the nature

of the inappropriate conduct alleged in each complaint and the governmental entity with which any employee or official that is the subject of a complaint was employed at the time of the alleged inappropriate conduct.

All papers, records, affidavits, and documents upon any complaint, inquiry, or investigation relating to the proceedings of the commission shall be sealed and are private and confidential except as otherwise provided in this section.

FIRST AMENDMENT:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assembly, and to petition the Government for a redress of grievances.

FOURTH AMENDMENT:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

FIFTH AMENDMENT:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

SIXTH AMENDMENT:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and

district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

NINTH AMENDMENT:

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

TENTH AMENDMENT:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

THIRTEENTH AMENDMENT:

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

FOURTEENTH AMENDMENT:

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to

any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned amoung the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such

male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each house, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

October 31, 1986

Municipal Court of Sprindfield, Ohio
25 North Fountain Avenue
Springfield, Ohio, 45502

ATTENTION: JOYCE LEVERING, Secretary to Judge Nevius.

Re: Urgent request for a complete Transcipt of all proceedings in Case No. 86-CR-002664, The Stae[sic] of Ohio, via Ohio Ethics Commission versus Ray Morgan

DEAR JOYCE LEVERING:

In reference to the above, and pursuant to our conversation at your work place this date, please be advised that the arraignment occurred on the 1st day of August, 1986 at 1:30 p.m. As referenced above please include all appearances before the Court for a completed Transcript.

Thanking you in advance for your prompt compliance with my request, I remain Sincerely Yours,

s / Ray Morgan - Filed Nov. 24, 1986.

TRANSCRIPT OF THE TRIAL PGS. 102 - 105:

*102] Q Are you saying, sir, that it's the commission's position that the assertion of a Constitutional right, in place of what they deem should be put there, is failure to file?

MR. STEWART: Objection, your Honor, I believe he's answered the question several times over and over again as to why they filed the charge.

MR. MORGAN: I don't think so! I don't think he's answered it, he certainly hasn't...

THE COURT: Well, the question is, what this witness' opinion is of what the commission thinks and there's no relevancy or materiality to the charge before the court.[sic]

MR. MORGAN: He's acting on behalf of the commission, your Honor, so if the commission...

THE COURT: That's right, and his opinion won't control what I think the law requires and I'm here to decide whether there's been a violation of the law. Whether he thinks *103] there's been one or not really doesn't matter.

MR. MORGAN: I would agree with that. But what's the outcome of this current dispute here?

THE COURT: Well, I would sustain the objection. You're asking him for an opinion or you're asking him, to be more specific, for the commission's opinion, which would be hearsay, whether or not it's a violation of the law.

MR. MORGAN: It's merely hearsay, your Honor, because I don't even have the opportunity to face my accusers.

THE COURT: The objection is sustained. The only person appearing with the records of the commission is Mr. Freel.

And he's the one who signed the affidavit. While I can presume that anyone who signs the affidavit believes there has been a violation of the law, whether they believe that or not is irrelevant to whether there has been a violation. It doesn't serve us any purpose.

MR. MORGAN: I don't understand that.

THE COURT: Your motion is sustained. Your question is not allowed, you may ask another question. It serves no *104] purpose to ask any witness whether they think the law is good or violated or whatever. That doesn't have any relevancy over the case before the Court.

MR. MORGAN: I think, your Honor, that if we have a body of state government that is enforcing statutory enactment over and against the assertion of the Constitutional answer or objection,

then we have an enforcement proceeding that borders on despotism and tyranny.

THE COURT: If your only ground for complaint in this case, Mr. Morgan, were that you disagree with the statutory law being enforced against you as being in conflict with the Constitution, then it still will not make any difference whether any witness in this proceeding agree with you or not. That is something that you can take the position against and that can be resolved as a question of law, but the individual opinions of witnesses as to whether they think that's going on is not persuasive one way or the other.

MR. MORGAN: I'd like to point out, sir, just off the top of my head the fact that I've got a Constitutional right to petition my government and it appears that they don't want a petition. They just want to bring criminal #105]

charges and I don't think at any time, as the State's shown, that I've had criminal intent.

THE COURT: You may ask another question of this witness.

MR. MORGAN: Thank you.

TRANSCRIPT OF THE TRIAL PG. 109:

MR. MORGAN: I would, your Honor, at this time ask the Court to consider my legal right and lawful right, to have an individual not a member of the bar, to sit here as my assistant clerk as I proceed in these proceedings. Is there any objection to that?

THE COURT: Well, the ruling in the motion for counsel would be the same as the request that you're making now. The only person who will be permitted to sit at the table and serve in any capacity will be a licensed attorney, so that your motion also will be denied. It's on the record orally made and denied.

MR. MORGAN: I do take exception, of course.

BRIEF OF THE APPELLANT TO THE COURT OF APPEALS, OF OHIO, SECOND APPELLATE DISTICT: Appearing On Page 36, to wit:

THE TRIAL COURT ERRED IN REFUSING THIS APPELLANT TO ELICIT TESTIMONY FROM HIS SUPOENAED (SIC) WITNESS, FORMER SHERIFF OF CLARK COUNTY, DONALD E. SANDERS; THAT IN FACT A FILING OF A FINANCIAL DISCLOSURE STATEMENT 'FORM' COULD BE USED, AND SUBSEQUENTLY WAS USED AGAINST MR. SANDERS, TO ACCOMPLISH A CRIMINAL CONVICTION THAT RESULTED IN HIS REMOVAL FROM ELECTED OFFICE. (THE TRANSCRIPT DOES NOT SHOW THIS, AS THIS APPELLANT WAS NOT ALLOWED TO ELICIT MR. SANDERS TESTIMONY.)

Appellant knows that he has the sole obligation and duty to perfect the record, albeit, he has no control over the lack of evidence claimed in this assignment of error except, he can provide proof before this distinguished body in an Evidentiary Hearing; beyond a shadow of doubt, the trial court would not allow testimony from this witness on behalf of this Appellant's defense.